

Attorney Docket No.: **KBI-0016**  
Inventors: **Ranganathan, Natarajan**  
Serial No.: **10/676,558**  
Filing Date: **September 30, 2003**  
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**REMARKS**

Claims 1-5 were pending in this application. Claims 1-4 have been amended to correct informalities. No new matter has been added. Applicant is respectfully requesting reconsideration of the restriction requirement in view of the following remarks.

The claims of the present application have been subjected to a Restriction Requirement under 35 U.S.C. §121 as follows:

Group I, claims 1-4, drawn to a composition; and

Group II, claim 5, drawn to a method for reducing urea in a host.

The Examiner acknowledges that Inventions I and II are related as product and process of use; however, they are suggested as being distinct because the composition could be used in a materially different process, such as a method for aiding digestion. The Examiner acknowledges that were Applicant to elect claims directed to the product, and the product claim were subsequently allowed, withdrawn process claims that depend from or otherwise include all limitations of the allowable product claim will be rejoined in accordance with the provisions of MPEP §821.04. Applicant is required to elect one of the Groups to be examined. Applicant respectfully disagrees and traverses this restriction requirement.

MPEP §803 is quite clear; for a proper restriction requirement, it must be shown (1) that the inventions are independent or distinct AND (2) that there would be a serious burden on the Examiner if the restriction is not required. MPEP 802.01 defines "distinct" to mean that the "two or more subjects as disclosed are related, for example, as combination and part (subcombination) thereof, process and apparatus for its practice,

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process and product made there, etc., but are capable of separate manufacture, use, or sale, as claimed, AND ARE PATENTABLE (novel and unobvious) OVER EACH OTHER."

The composition claims of Group I are drawn to a probiotic bacterium which reduces the urea concentration when ingested by a host. The method claim of Group II encompasses all of the technical features of said composition and therefore a search of the relevant prior art for a bacterium which meets these criteria will inherently reveal references that disclose the use of such a bacterium for reducing urea concentration in a host suffering from elevated uremic toxin accumulated in the blood. As the phenotypic criteria of the bacterium of Group I claims is co-extensive with the use of such bacteria in the methods of Group II claims, no serious burden would be incurred by the Examiner in searching and examining together claims of Groups I and II. In contrast, the prosecution of each of these inventions separately will pose a substantial economic burden on Applicant. Therefore, reconsideration of this restriction requirement is respectfully requested.

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However, in an earnest effort to be completely responsive, Applicant hereby elects to prosecute Group I, claims 1-4, drawn to a composition, classified in class 424, subclass 237.1, with traverse.

Respectfully submitted,



Jane Massey Licata  
Registration No. 37,257

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Licata & Tyrrell P.C.  
66 E. Main Street  
Marlton, New Jersey 08053

(856) 810-1515